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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/791,149	03/01/2004	Richard Postrel	370-029	3159
7590 Anthony R. Barkume 20 Gateway Lane Manorville, NY 11949			EXAMINER BAIRD, EDWARD J	
			ART UNIT 3693	PAPER NUMBER
			MAIL DATE 05/14/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/791,149

**Applicant(s)**

POSTREL, RICHARD

**Examiner**

EDWARD BAIRD

**Art Unit**

3693

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 February 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-10, 21 and 22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-10, 21, and 22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/S508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### ***Status of Claims***

1. Applicant has amended claims 1 – 7 in this application. Claims 11 – 20 have been canceled. Applicant has added claims 21 and 22. Thus, claims 1 – 10, 21 and 22 are pending in this application and are presented for examination.

### ***Response to Arguments***

2. Applicant's arguments and amendments filed on 17 March 2008, with respect to rejections of **claims 1 – 10** rejected under 35 U.S.C. 102 (b) and 103 (a) have been fully considered but are moot in view of new ground(s) of rejection.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1 – 3, 5 – 7, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Harris et al** (US Patent No. 6,014,635) in view of **Walker et al** (US Patent No. 6,327,573).

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5. Regarding **claim 1**, **Harris** teaches a method and a system which rewarding customers with discounts for utilizing participating authorized merchants. The system and method are used in conjunction with a credit card network [column 3 lines 34 – 57 - Examiner interprets *discount credit system* as analogous to Applicant's **reward point system**], comprising:

- a. providing a reward point account database in a central reward server operating in association with the card network, [column 4 lines 7 – 22 and lines 41 – 57 - Examiner interprets *discount credit system* as analogous to Applicant's **reward point system**],
- the central reward server enabling a plurality of independently operating merchants [column 5 lines 36 – 40]
- to each have a plurality of individual user reward point accounts [column 6 lines 51 – 56 – Examiner notes *membership accounts* as analogous to Applicant's **individual user reward point accounts**]
- stored in said reward point account database and associated with said independently operating merchant [column 4 lines 7 – 22 - Examiner interprets *client* as analogous to Applicant's **merchant**; Examiner interprets *customer or member* as analogous to Applicant's **individual user**],
- b. a user executing a purchase transaction with a transacting merchant selected from said plurality of independently operating merchants by presenting to the transacting merchant a credit card for payment of the transaction [column 5 lines 16 – 19];
- c. the transacting merchant requesting an acquiring bank to obtain approval of said purchase transaction from an issuing bank [column 8 lines 12 – 18, and Figure 1 – Examiner interprets *settlement transactions* as Applicant's **request to obtain approval**. Examiner interprets *merchant bank* as analogous to Applicant's **acquiring bank**. Examiner interprets *card issuing bank* as analogous to Applicant's **issuing bank**]; and

- d. the transacting merchant instructing the central reward server to add reward points to a user reward point account associated with the transacting merchant and the user [column 11 lines 16 – 23, and Figure 6 – Examiner interprets *issuing credit for a certain discount percentage* as analogous to Applicant's **adding reward points to a user reward point account**].

**Harris** does not disclose **reward points** as such. However, **Walker** discloses a method enabling a frequent shopper to acquire or earn reward points [Abstract, column 4 lines 16 – 62, and column 10 line 12 – 23 – Examiner notes a *reward point increase attribute* as analogous to Applicant's **adding reward points**].

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Harris'** invention to include **reward points** into his method and system as taught by **Walker** because it would allow merchant to reward a customer for continued patronage based over a period of time.

6. Regarding **claim 2**, **Walker** teaches redeeming reward points from the user reward point account by:

- the user executing a purchase transaction with a redeeming merchant
- the user utilizing reward points from at least one of the user reward point accounts associated with the user for the purchase transaction;
- the redeeming merchant instructing the central reward server to reduce the user reward point account associated with the user by the amount of reward points used in the transaction [column 6 lines 21 – 45 – Examiner interprets the *transactional profile which contains a purchase history and a reward history* as indicative of Applicant's **user utilizing reward points**].

Therefore, this claim is rejected for the same reasons as claim 1.

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7. Regarding **claim 3**, **Harris** teaches:

- establishing a reward point exchange account on the central reward server [column 4 lines 6 – 22 and 41 – 57 – Examiner notes Harris discloses both a *passive* and an *active* enrollment method as analogous to Applicant's **establishing** a reward point exchange account];
- selecting reward points from each of a plurality of user reward point accounts associated with different independently operating merchants for exchange into the reward point exchange account [column 5 lines 35 – 40];

**Harris** does not specifically disclose aggregating **reward points**.

However, **Walker** discloses:

- aggregating the selected reward points into the reward point exchange account [column 4 lines 54 – 63 and column 6 lines 21 – 45 - Examiner notes *rewards* or *reward points* being earned and being redeemed by account holders. Examiner interprets *earning rewards* as indicative of Applicant's **aggregation the selected reward points**].

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Harris**' invention to include **aggregating reward points** into his method and system as taught by **Walker** because it would allow merchant to reward a customer for continued patronage based over a period of time.

8. Regarding **claim 5**, **Harris** teaches:

- establishing a cluster of independently operating merchants, each of which have user reward point accounts established with the reward point account database in the central reward server
- allowing aggregation of points from each of the independently operating merchants in the cluster into the reward point exchange account [column 3 lines

58 – 65 - Examiner notes that *participating vendors* represent Applicant's **cluster of merchants**]; and

- disallowing aggregation of points from a merchant not a member of the cluster [Examiner interprets that *participating vendors, who become authorized merchants and agree to offer their goods or services to the participants of the discount credit system* as indicative of Applicant's disallowing merchants who are not authorized i.e. those who are **not a member of the cluster**].

9. Regarding **claim 6, Harris** teaches:

- allowing for redemption of aggregated reward points only with redeeming merchants that are members of the cluster [column 3 line 66 – column 4 line 3 - Examiner interprets *receiving a percentage discount* as Applicant's **redemption of aggregated reward points**. Examiner interprets *a participant* as including Applicant's redeeming merchants who are **members of the cluster**].

10. Regarding **claim 7, Harris** teaches:

- reward point exchange account is administered by the **card network operator** [column 1 lines 52 – 55 - Examiner interprets *affinity programs* as programs containing accounts representing Applicant's **reward point exchange accounts**. Examiner interprets **card issuers** as equivalent to Applicant's **credit card network operator**].

11. Regarding **claims 21 and 22, Walker** teaches the user executing the redemption purchase transaction

- completely with reward points, or
- partially with reward points from the reward point account and partially with other consideration [column 2 lines 25 – 30 – Examiner interprets *allocating at least a*

*portion of the determined reward level as analogous to Applicant's redemption completely with or partially with reward points].*

Therefore, these claims are rejected for the same reasons as claim 2, the claim upon which these claims depend.

12. Claims 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over **Harris et al** (US Patent No. 6,014,635) in view of **Walker et al** (US Patent No. 6,327,573) as applied to claim 3, in further view of **Klayh** (USPub. No. 2003/0050831).

13. Regarding claim 4, neither **Harris** nor **Walker** explicitly discloses redeeming aggregated reward points from the reward point exchange account.

However, **Klayh** teaches:

- the user executing a purchase transaction with a redeeming merchant;
- the user utilizing aggregated reward points from the reward point exchange account for the purchase transaction;
- the reward point exchange account being reduced by the number of aggregated reward points utilized for the purchase transaction.

**Klayh** discloses an embodiment of his method which controls a customer reward system [0023] by:

- establishing merchant, customer and administrator loyalty point databases [0024],
- depositing loyalty points in a designated customer's database [0025],
- redeeming loyalty points for goods or services [0026 - Examiner interprets *redeeming loyalty points* as Applicant's **redeeming aggregated reward points**], and

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- decrementing a further predetermined number of loyalty points from the database of the merchant and incrementing the database of the administrator by the further predetermined number of loyalty points [paragraph 0027 - Examiner interprets *decrementing loyalty points* as Applicant's **reducing the number of aggregated reward points**].

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Harris** invention to include **Klayh's** disclosure into his system because it promotes customer loyalty to a particular credit card issuer.

14. Claims 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over **Harris et al** (US Patent No. 6,014,635) in view of **Walker et al** (US Patent No. 6,327,573) as applied to claim 3, in further view of **Official Notice**.

15. Regarding **claim 8 and 9**, neither **Harris** nor **Walker** does not explicitly disclose:

- reward point exchange account being administered by an **issuing bank** (claim 8) or an **acquiring bank** (claim 9).

Examiner takes **Official Notice** that banks which have issued credit cards (i.e. **issuing banks**), or banks which collect payments on credit cards (i.e. **acquiring banks** as defined in claim 1) are typically one in the same. Examiner notes Boeing Employees Credit Union which has a **Visa Credit Card** program which offers frequent flyer miles for using the credit card for any purchases made with it. This is old and well known in the art.

Examiner notes that a credit union is equivalent to the Applicant's issuing bank or acquiring bank.

Therefore, this claim is rejected on the same grounds as claim 3, the claim upon which they depend.

16. Claim 10 is rejected under 35 U.S.C. 103 (a) as being unpatentable over **Harris et al** (US Patent No. 6,014,635) in view of **Walker et al** (US Patent No. 6,327,573) as applied to claim 3, in further view of **Blagg et al** (US Patent No. 7,076,465).

17. Regarding **claim 10**, neither **Harris** nor **Walker** explicitly discloses aggregating reward points into the central exchange reward point account. However, **Blagg** teaches:

- reward points from an independent reward point system being aggregated into the central exchange reward point account [column 27 line 63 – column 28 line 14 - Examiner interprets key account and group account as analogous to Applicant's independent reward point system and central exchange reward point account, respectively].

Therefore, it would have been obvious to a person having an ordinary skill in the art at the time of the **Harris'** invention to include **Blagg's** disclosure into his system because grouping reward points together would allow users more product and service options when redeeming reward points.

### ***Conclusion***

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ed Baird whose telephone number is (571) 270-3330. The examiner can normally be reached on Monday - Thursday 7:30 am - 5:00 pm Eastern Time.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jay Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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